

**State Controller's Office  
Local Government Oversight Initiative  
Proposed Legislative Changes**

**Modify Government Code Section 12410.5 as follows:**

**12410.5.** The Controller shall receive every *annual financial* audit report prepared for any local public agency, *as defined in section 53890, including those reports prepared in compliance with the federal Single Audit Act of 1984 (P.L. 98-502; 31 U.S.C. Sec. 7501 et seq.) and the Single Audit Act Amendments of 1996 (P.L. 104-156)* required under any law to be submitted to any state agency, and shall, after ascertaining its compliance with that federal act, transmit the report to the designated state agency.

**Add the following Government Code Sections:**

*12410.7. (a) The Controller on an annual basis shall post the audit reports issued by independent auditors submitted to the Controller's Office pursuant to subdivision 12410.5 .*

*12410.8. (a) The Controller shall report to the Legislature by January 31 of each year the results of the Controller's oversight activity, including the results of the Controller's quality control reviews. (b) A report submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795. (c) Pursuant to Section 10231.5, this section is repealed on December 31, 2015.*

*12410.9. (a) The Controller may perform quality control reviews of audit working papers to determine whether audits are performed in conformity with government audit standards. The Controller shall communicate the results of his or her reviews to the Department of Finance, the independent auditor, and the local agency for which the audit was performed, and shall review his or her findings with the independent auditor. (b) Prior to the performance of any quality control reviews, the Controller shall develop and publish guidelines and standards for those reviews. Pursuant to the development of those guidelines and standards for those reviews, the Controller shall provide an opportunity for public comment. The Controller shall update the guidelines and standards for any changes in audit standards. (c) The Controller is responsible for selecting audits for review based on criteria, including, but not limited to, disciplinary actions by the California Board of Accountancy, results of the Controller's review and monitoring of the single audit reports, the extent of findings in the audit reports issued by the independent auditor, the number of audits of local agencies performed annually by the independent auditor, the independent auditor's experience in performing audits of local agencies, the complexity of state and federal programs administered by the local agencies, and requests or leads from other sources. (d) If the Controller finds that the audit was conducted in a manner that constitutes unprofessional conduct as defined pursuant to Section 5100 of the Business and Professions Code, or that there*

*were multiple and repeated failures to disclose noncompliant acts, the Controller shall refer the case to the California Board of Accountancy. In that instance, the independent auditor shall be prohibited from performing an audit of a local agency until such time as the board resolves the matter. If the California Board of Accountancy finds that the independent auditor conducted an audit in an unprofessional manner, the Controller may prohibit the independent auditor from performing any audit of a local agency for the period during which the independent auditor is not in good standing with the board, in addition to any other penalties that the California Board of Accountancy may impose.*

## **Modify Government Code follows:**

SECTION 1. Section 12463 of the Government Code is amended to read:

12463. (a) The Controller shall compile and publish reports of the financial transactions of each county, city, ~~and~~ special district, and joint powers agency formed pursuant to the Joint Exercise of Powers Act (Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1) that issues conduit revenue bonds, respectively, within this state, together with any other matter he or she deems of public interest. The reports shall include the appropriations limits and the total annual appropriations subject to limitation of the counties, cities, and special districts. The reports to the Controller shall be made in the time, form, and manner prescribed by the Controller.

(b) Effective January 1, 2005, the Controller shall compile and publish reports of the financial transactions of each county, city, and special district pursuant to subdivision (a) on or before August 1, September 1, and October 1 respectively, of each year following the end of the annual reporting period. The Controller shall make data collected pursuant to this subdivision available upon request to the Legislature and its agents, on or before April 1 of each year.

~~—(c) The Controller shall annually publish reports of the financial transactions of each school district within this state, together with any other matter he or she deems of public interest. The reports shall include the appropriations limit and the total annual appropriations subject to limitation of the school district. The reports to the Controller shall be made in the time, form, and manner prescribed by the Controller.~~

~~—(d) As used in this section, the following terms have the following meanings:~~

~~—(1) "School district" means a school district as defined in Section 80 of the Education Code.~~

~~—(2) "Special~~

~~(c)~~ As used in this section, "special district" means any of the following:

(A) 1) A special district as defined in Section 95 of the Revenue and Taxation Code.

(B) 2) A commission provided for by a joint powers agreement pursuant to Chapter 5 (commencing with 6500) of Division 7 of Title 1.

(C) 3) A nonprofit corporation that is any of the following:

(i) A) Was formed in accordance with the provisions of a joint powers

agreement to carry out functions specified in the agreement.

(~~ii~~ B) Issued bonds, the interest on which is exempt from federal income taxes, for the purpose of purchasing land as a site for, or purchasing or constructing, a building, stadium, or other facility, that is subject to a lease or agreement with a local public entity.

(~~iii~~ C) Is wholly owned by a public agency.

SEC. 2. Section 53890 of the Government Code is amended to read:

53890. As used in this article, "local agency" means any city, county, any district, ~~and~~ any community redevelopment agency required to furnish financial reports pursuant to Section 12463.1 or 12463.3 , and a joint powers agency formed pursuant to the Joint Exercise of Powers Act (Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1) that issues conduit revenue bonds .

SEC. 3. Section 53892.1 of the Government Code is repealed.

~~53892.1. For the purpose of permitting the compilation of the financial transactions of school districts by the Controller, the Superintendent of Public Instruction shall make available to the Controller, on an as-needed basis, data and other matters required by this article by the Controller. The Superintendent shall derive the data and other matters required for purposes of this article by the Controller from reports furnished by school districts or by county officials to the Superintendent as provided by law. No school district or county superintendent of schools shall be required to furnish separate reports to the Controller by the provisions of this article. The Superintendent shall furnish average daily attendance or enrollment data in lieu of the general population data required of counties and other municipal corporations by this article. The Superintendent shall add to the report forms furnished by him or her items or other matters as may be agreed by the Superintendent and the Controller to be needed for the purposes of this article.~~

SEC. 4. Section 53895 of the Government Code is amended to read:

53895. (a) An officer of a local agency who fails or refuses to make and file his or her report within 20 days after receipt of a written notice of the failure from the Controller shall forfeit to the state:

(1) ~~One~~ Two thousand five hundred dollars ~~(\$1,000)~~ (\$2,500), in the case of a local agency with total revenue, in the prior year, of less than one hundred thousand dollars (\$100,000), as reported in the Controller's annual financial reports.

(2) ~~Two~~ Five thousand ~~five~~ hundred dollars ~~(\$2,500)~~ (\$5,000), in the case of a local agency with total revenue, in the prior year, of at least one hundred thousand dollars (\$100,000) but less than two hundred fifty thousand dollars (\$250,000), as reported in the Controller's annual financial reports.

(3) ~~Five~~ Ten thousand dollars ~~(\$5,000)~~ (\$10,000), in the case of a local agency with total revenue, in the prior year, of at least two hundred fifty thousand dollars (\$250,000), as reported in the Controller's annual financial reports.

(b) (1) Upon the request of the Controller, the Attorney General shall prosecute an action for the forfeiture in the name of the people of the State of California.

(2) Upon a satisfactory showing of good cause, the Controller may

waive the penalties for late filing provided in this section.

(c) If an officer of a local agency fails or refuses to make and file his or her report within 20 days after receipt of a written notice pursuant to subdivision (a) for two consecutive years, the forfeiture or fine assessed pursuant to paragraphs (1), (2), and (3) of subdivision (a) in the second year shall be doubled.

(d) (1) If an officer of a local agency fails or refuses to make and file his or her report within 20 days after receipt of a written notice pursuant to subdivision (a) for three consecutive years, the forfeiture or fine assessed pursuant to paragraphs (1), (2), and (3) of subdivision (a) in the third year shall be tripled. The Controller shall also conduct or cause to be conducted an independent financial audit report. In the case of a community redevelopment agency, the audit report shall be consistent with the requirements of Section 33080.1 of the Health and Safety Code, and in the case of a joint powers agency, the audit report shall be consistent with Section 6505. The agency shall reimburse the Controller for the cost of complying with this subdivision.

(2) A redevelopment agency shall not use any of the funds in the Low and Moderate Income Housing Fund to fund any forfeiture or fine assessed pursuant to this section.

(e) An agency that makes a forfeiture or payment pursuant to this section shall still file the report required pursuant to Section 53891.

~~(f) The Legislature finds and declares all of the following:~~

~~— (1) Conduit financing providers annually provide billions of dollars of tax exempt financing to the private sector at a cost to the state caused by a lack of tax revenues on the interest earned on these investments, for projects that are intended to fulfill a public benefit purpose, including, but not limited to, educational facilities, pollution control facilities, health care facilities, industrial development, and affordable housing.~~

~~— (2) Testimony and information provided to the Senate Committee on Local Government at its February 6, 2008, informational hearing on "Conduit Financing: Transparency and Accountability" demonstrated the need to provide for greater public awareness of, and participation in, the activities of conduit financing providers.~~

~~— (3) Statutory ambiguities and discrepancies make it difficult to determine whether all conduit financing providers are complying with audit, annual financial reporting, and other public accountability requirements.~~

~~— (4) It is the intent of the Legislature in enacting these provisions to ensure that all conduit financing providers make their activities sufficiently transparent and accountable to the public by extending sufficient opportunities for participation in public meetings and providing useful information about their financial activities.~~

SEC. 5. Section 53895.5 of the Government Code is repealed.

~~— 53895.5. (a) An officer of a community redevelopment agency who fails or refuses to make and file his or her report within 20 days after receipt of a written notice of the failure from the Controller shall forfeit to the state:~~

~~— (1) One thousand dollars (\$1,000) in the case of a community redevelopment agency with total revenue, in the prior year, of less than one hundred thousand dollars (\$100,000), as reported in the~~

~~Controller's annual financial reports.~~

~~— (2) Two thousand five hundred dollars (\$2,500) in the case of a community redevelopment agency with total revenue, in the prior year, of at least one hundred thousand dollars (\$100,000), but less than two hundred fifty thousand dollars (\$250,000), as reported in the Controller's annual financial reports.~~

~~— (3) Five thousand dollars (\$5,000) in the case of a community redevelopment agency with total revenue, in the prior year, of at least two hundred fifty thousand dollars (\$250,000), as reported in the Controller's annual financial reports.~~

~~— (b) An officer of a community redevelopment agency who fails or refuses to make and file his or her report within 20 days after receipt of a written notice of the failure from the Controller in the second or more consecutive year shall forfeit to the state:~~

~~— (1) Two thousand dollars (\$2,000) in the case of a community redevelopment agency with total revenue, in the prior year, of less than one hundred thousand dollars (\$100,000), as reported in the Controller's annual financial reports.~~

~~— (2) Five thousand dollars (\$5,000) in the case of a community redevelopment agency with total revenue, in the prior year, of at least one hundred thousand dollars (\$100,000), but less than two hundred fifty thousand dollars (\$250,000), as reported in the Controller's annual financial reports.~~

~~— (3) Ten thousand dollars (\$10,000) in the case of a community redevelopment agency with total revenue, in the prior year, of at least two hundred fifty thousand dollars (\$250,000), as reported in the Controller's annual financial reports.~~

~~— (c) In the case of a community redevelopment agency that fails or refuses to make and file its report within 20 days after receipt of a written notice of the failure from the Controller in the third or more consecutive year, the Controller shall conduct or cause to be conducted an independent financial audit report consistent with the requirements of Section 33080.1 of the Health and Safety Code. The community redevelopment agency shall reimburse the Controller for the cost of complying with this subdivision. The community redevelopment agency shall not use any of the funds in the Low and Moderate Income Housing Fund to reimburse the Controller.~~

~~— (d) (1) Upon the request of the Controller, the Attorney General shall prosecute an action for the forfeiture in the name of the people of the State of California.~~

~~— (2) Upon a satisfactory showing of good cause, the Controller may waive the penalties for late filing provided in this section.~~

~~— (e) A community redevelopment agency that makes a forfeiture or payment pursuant to this section shall still file the report required pursuant to Section 53891.~~

SEC. 6. Section 53895.7 of the Government Code is repealed.

~~53895.7. (a) For the purpose of this section, "agency" means any agency or entity formed pursuant to the Joint Exercise of Powers Act (Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1) that issues conduit revenue bonds.~~

~~— (b) An officer of an agency who fails or refuses to make and file his or her report pursuant to this article within 20 days after receipt of a written notice of the failure from the Controller shall forfeit to the state:~~

~~— (1) One thousand dollars (\$1,000) in the case of an agency with total revenue, in the prior year, of less than one hundred thousand~~

~~dollars (\$100,000), as reported in the Controller's annual financial reports.~~

~~— (2) Two thousand five hundred dollars (\$2,500) in the case of an agency with total revenue, in the prior year, of at least one hundred thousand dollars (\$100,000), but less than two hundred fifty thousand dollars (\$250,000), as reported in the Controller's annual financial reports.~~

~~— (3) Five thousand dollars (\$5,000) in the case of an agency with total revenue, in the prior year, of at least two hundred fifty thousand dollars (\$250,000), as reported in the Controller's annual financial reports.~~

~~— (c) An officer of an agency who fails or refuses to make and file his or her report within 20 days after receipt of a written notice of the failure from the Controller in the second or more consecutive year shall forfeit to the state:~~

~~— (1) Two thousand dollars (\$2,000) in the case of an agency with total revenue, in the prior year, of less than one hundred thousand dollars (\$100,000), as reported in the Controller's annual financial reports.~~

~~— (2) Five thousand dollars (\$5,000) in the case of an agency with total revenue, in the prior year, of at least one hundred thousand dollars (\$100,000), but less than two hundred fifty thousand dollars (\$250,000), as reported in the Controller's annual financial reports.~~

~~— (3) Ten thousand dollars (\$10,000) in the case of an agency with total revenue, in the prior year, of at least two hundred fifty thousand dollars (\$250,000), as reported in the Controller's annual financial reports.~~

~~— (d) In the case of an agency that fails or refuses to make and file its report within 20 days after receipt of a written notice of the failure from the Controller in the third or more consecutive year, the Controller shall conduct, or cause to be conducted, an independent financial audit report consistent with the requirements of Section 6505. The agency shall reimburse the Controller for the cost of complying with this subdivision.~~

~~— (e) (1) Upon the request of the Controller, the Attorney General shall prosecute an action for the forfeiture in the name of the people of the State of California.~~

~~— (2) Upon a satisfactory showing of good cause, the Controller may waive the penalties for late filing provided in this section.~~

~~— (f) An agency that makes a forfeiture or payment pursuant to this section shall still file the report required pursuant to Section 53891.~~